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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,330

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Jean-Louis Assie

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170 7590 02/11/2008

RICHARD M. GOLDBERG  
25 EAST SALEM STREET  
SUITE 419  
HACKENSACK, NJ 07601

EXAMINER

PICKETT, JOHN G

ART UNIT

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3728

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DELIVERY MODE

02/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,330	<b>Applicant(s)</b> ASSIE ET AL.	
	<b>Examiner</b> J. Gregory Pickett	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/19/07</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Office Action acknowledges the applicant's amendment filed 19 November 2007. Claims 1 and 3-11 are pending in the application. Claim 2 has been canceled. Claim 11 is new.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 1, 3, 5-8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 4,896,768) in view of Gruenbacher et al (US 6,547,468).

Claim 1: Anderson discloses a single-use packaging 10 comprising a protective cover made of two separable parts 12 & 16 of leak-proof material (Col. 3:5-9).

Anderson discloses an applicator 14 impregnated with a dose of substance and fixed on an inside face of the cover part 16, but does not disclose the applicator as a pouch with breakable blister.

Gruenbacher teaches an applicator comprising a pouch 10 with a first part 25 a second part 15 that is an applicator, and blister 12 housed within the parts of the pouch for the controlled release of the substance (see for example Col. 2:56-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made

to replace the applicator pad of Anderson with the applicator pouch of Gruenbacher in order to provide controlled release of the substance.

Claim 3: Gruenbacher discloses a pouch with a first part of flexible material 25 and a second part of flexible, porous material 15 united by closed junction 13/16 with blister 12 held captive between the parts. Anderson teaches the applicator fixed to the inside face of cover part 16. To enable application of the substance, one of ordinary skill in the art would have found it obvious to mount the impermeable first part 25 of Gruenbacher to the inside face of Anderson.

Claims 5-7 and 11: Anderson teaches closed outline junction line 18/20/22/24 surrounding the applicator in an area significantly greater than the applicator area 20, which is substantially centered. Outline junction permits peelable separation and is a heat seal or adhesive (see for example Col. 9, lines 59-62). It would have been obvious to one of ordinary skill in the art to maintain this arrangement when the applicator pad 14 of Anderson is replaced with pouch 10 of Gruenbacher.

Claim 8: Anderson discloses pull-tabs (see Figures 1 and 2).

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson-Gruenbacher as applied to claim 3 above, and further in view of Kerch et al (US 4,762,124).

Anderson-Gruenbacher as applied to claim 3 above, discloses the claimed invention except for the cotton wool inside the pouch.

Kerch teaches the provision of cotton wool 20 inside an applicator 10 with a permeable membrane 22 for the purpose of retaining large quantities of liquid in measured amounts (see for example Col. 4, lines 42-44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide cotton wool inside the pouch of Anderson-Gruenbacher in order to retain large quantities of liquid in measured amounts.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson-Gruenbacher as applied to claim 1 above, and further in view of Fleury (US 6,695,515) and Frank (US 5,511,689).

Anderson-Gruenbacher, as applied to claim 1 above, discloses the claimed invention except for the adhesive dressing.

Fleury suggests the provision of an adhesive dressing D on an applicator package for covering a wound after it has been disinfected (see for example Col. 2, lines 16-18).

Frank teaches an adhesive dressing 1 and cover 4 applicable to the external surface of a film 6 with the outside surface of dressing 1 weakly secured to an inside face of cover 4; cover 4 is affixed to mounting film 6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an adhesive dressing as taught by Frank to a package of Anderson-Gruenbacher for covering a wound after it has been disinfected as suggested by Fleury.

***Double Patenting***

6. Claims 1-11 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/539,266 in view of Gruenbacher et al (US 6,547,468).

Claims 1-12 of copending Application No. 10/539,266 merely lack the breakable blister. Gruenbacher teaches an applicator comprising a pouch 10 with blister 12 housed within the pouch for the controlled release of the substance (see for example Col. 2, lines 56-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the applicator of claims 1-12 of copending Application No. 10/539,266 with a blister as taught by Gruenbacher in order to provide controlled release of the substance.

This is a provisional obviousness-type double patenting rejection.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner, Art Unit 3728